

SENATE BILL No. 102

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-54-11-2.

Synopsis: Foreign judgments. Provides that defenses raised by a foreign judgment debtor must be ruled upon before the foreign judgment: (1) may be enforced by execution; or (2) constitutes a lien. Provides that a foreign judgment creditor is entitled to the same prejudgment remedies as an Indiana judgment creditor. Authorizes an Indiana court in which a foreign judgment is filed to preliminarily litigate certain postjudgment motions.

Effective: July 1, 2005.

Long, Lanane

January 4, 2005, read first time and referred to Committee on Judiciary.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 102

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-54-11-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A judgment
3 creditor filing a foreign judgment under this chapter must file an
4 affidavit with the clerk of the court in which the foreign judgment is
5 filed at the time the foreign judgment is filed. The affidavit must set
6 forth:

- 7 (1) the name and last known address of the judgment debtor; and
- 8 (2) the name and last known address of the judgment creditor.

9 (b) The judgment creditor must send notice of the filing of the
10 foreign judgment in the same process prescribed under Indiana Trial
11 Rule 4 through Indiana Trial Rule 4.17.

12 (c) The notice described in subsection (b) must contain:

- 13 (1) the name and address of the judgment creditor;
- 14 (2) the name and address of the judgment creditor's attorney, if
15 any; and
- 16 (3) the nature and amount of the judgment creditor's claim under
17 the foreign judgment.



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(d) Execution or other process for the enforcement of a foreign judgment may not be issued earlier than twenty-one (21) days after the entry of the judgment in the judgment's original jurisdiction.

(e) Not later than twenty-one (21) days after the date notice is served to the judgment debtor by the judgment creditor or the judgment creditor's attorney, the judgment debtor may file a notice with the court in which the judgment has been filed asserting any defenses that would prohibit the judgment creditor from execution or another process for enforcement of the foreign judgment.

(f) If a judgment debtor files a timely notice under subsection (e), a foreign judgment may not:

(1) constitute a lien under IC 34-55-9-2; or

(2) be enforced by execution or another process for enforcement of the foreign judgment;

until the court in which the foreign judgment is filed has issued an order sustaining or overruling each defense asserted in the notice filed under subsection (e).

(g) A court in which a foreign judgment is filed may issue an order staying the time within which a notice by a judgment debtor must be filed under subsection (e) if the court determines that litigation of a postjudgment motion:

(1) is appropriate; and

(2) would be available if the judgment had been obtained in an Indiana court.

(h) If a court stays under subsection (g) the time within which a notice by a judgment debtor must be filed under subsection (e), a foreign judgment may not:

(1) constitute a lien under IC 34-55-9-2; or

(2) be enforced by execution or another process for enforcement of the foreign judgment;

during the period of the stay.

(i) A creditor filing a foreign judgment is entitled to any prejudgment remedy that is available to a creditor in an Indiana court during the pendency of:

(1) the proceeding to determine the availability of a defense under subsection (e); or

(2) a stay under subsection (g).

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